

Economy & Enterprise Overview and Scrutiny Committee

22nd April 2024

Selective Licensing Update



Report of Amy Harhoff, Corporate Director of Regeneration, Economy and Growth

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 This report provides an update for the members of the Economy and Enterprise Overview and Scrutiny Committee on the progress of the Selective Licensing scheme.

Executive summary

- 2 The legal powers to set up a scheme for the licensing of properties is contained in Part 3 of the Housing Act 2004. The scheme lasts for five years. Following a three-month notice period, the scheme went live in April 2022.
- 3 Selective licensing provides a regulatory framework which allows for pro-active monitoring of the private rented sector and the opportunity for enforcement against poor landlords. It facilitates a multi-agency approach making the best use of a range of powers available in addition to selective licensing.
- 4 Civil Penalties can be used as alternative to prosecution for Selective Licensing offences, including for not having a licence, non-compliance with licence conditions, or for improvement notices.
- 5 The teams continue to work proactively in the selective licensing areas to ensure all landlords obtain a license and comply with licence conditions, by making full use of both informal measures as well as robustly pursuing enforcement action.

Recommendation

- 6 The Economy and Enterprise Overview and Scrutiny Committee Members to note the content of the report and presentation and provide feedback accordingly.

Background

- 7 The council's housing functions include:
 - Preparing the Housing strategy which sets out the housing needs of the County and how they will be met.
 - Private Sector Housing (Enforcement) working with landlords to ensure any housing provided meets the required standards.
 - Selective Licencing which provides for the regulation of landlords in designated areas of the County.
- 8 Following consultation, and Cabinet approval in September 2020, Durham County Council applied for selective licensing to central government in December 2020. This application was approved on 30 November 2021.
- 9 Selective licensing came into force on 1 April 2022, covering 42% of the private rented homes and 103 of the 324 Lower Super Output Areas (LSOAs) in County Durham.
- 10 A landlord must have a licence for their property if they privately rent it in a designated area for selective licensing in County Durham.

Selective Licensing scheme

- 11 The scheme covers 42% of the private rented sector (PRS) in County Durham (approximately 28,500 homes) and is one of the largest schemes in the Country. Where a Selective Licensing scheme covers more than 20% of the Private Rented Sector the specific consent of the Secretary of State is required before a scheme can be introduced.
- 12 The Selective Licensing scheme was approved by the Secretary of State for the Department of Levelling Up, Housing and Communities (DLUHC) on 30 November 2021.
- 13 The scheme covers 103 of the 324 Lower Super Output Areas (LSOAs) in County Durham and in each of the LSOA, evidence was provided to demonstrate that the area met at least one of the conditions required by legislation, and some areas met the conditions for all three. These relate to:
 - Significant and persistent anti-social behaviour
 - Low demand
 - A high level of deprivation.

- 14 The legal powers to set up a scheme for the licensing of properties is contained in Part 3 of the Housing Act 2004. The scheme lasts for five years. Following a three-month notice period, the scheme went live in April 2022.
- 15 The key elements of this scheme in Durham are:
- promotion of good practice in terms of management and maintenance which is capable of being enforced;
 - mandatory licence application for every PRS property within the defined scheme;
 - landlords must pass a 'fit and proper person' test in advance of receiving a licence;
 - appropriate staffing structure in place to support scheme administration, inspection, and enforcement;
 - property inspection regime in place; and
 - support for landlords to comply with licence conditions.
- 16 To date 13,124 Applications have been received, 11,821 Licences issued and £5.72 million in income has been received. Work is progressing on ensuring all landlords operating in the designated area are licensed.
- 17 Selective licensing provides a regulatory framework which allows for pro-active monitoring of the private rented sector and the opportunity for enforcement against poor landlords. It facilitates a multi-agency approach making the best use of a range of powers available in addition to selective licensing.
- 18 It is acknowledged that this is part of the solution, all previous interventions are still needed to, not just stabilise but, enhance our communities moving forward.
- 19 The licensing fee is a maximum of £555 from 1 April 2024, with discount available for each of the following:
- Existing licence holders (on 1 April 2024), receive £110 discount if they apply for a licence for an additional property that has become licensable in the past 12 weeks.
 - All landlords with two or more properties (£35 discount for each licence after the first property).

- 20 Landlords who have complied and are licence holders already will pay just £410 per licence for additional properties, reflecting a reduced fee for tackling enforcement.
- 21 All income is ringfenced for the operation of the selective licensing scheme only. Approximately £12 million may be raised across the five years of the scheme.
- 22 Around 350-400 applications are currently being received monthly and we will continue to endeavour to improve upon this rate going forward.
- 23 Notwithstanding the outstanding work of the team to date, there remains a small risk that we will not meet the projected targets by the time the Selective Licencing Scheme comes to an end in March 2027. We will provide a full update to Cabinet in October 2024 to mark the mid-way point of the scheme. This will enable us the opportunity to set out our plans for the remaining two and a half years of the scheme and provide an early assessment of proposals to extend beyond the initial five years.
- 24 This will be followed by a full review of the scheme that will commence by the middle of 2025 with a view to reporting to Cabinet towards the end of 2025 or early 2026 with recommendations on next steps and whether to pursue an extended scheme.
- 25 We will engage with the Economy & Enterprise Overview and Scrutiny Committee as part of both reporting to Cabinet in October this year and the full review of the scheme in 2025.
- 26 The teams continue to work proactively in the selective licensing areas to ensure all landlords obtain a license and comply with licence conditions, by making full use of both informal measures as well as robustly pursuing enforcement action.

Enforcement

- 27 Over 3,000 inspections have been carried out so far, including 350 follow up formal inspections.
- 28 There have been 81 improvement notices issued, and two prosecutions.
- 29 Civil Penalties can be used as alternative to prosecution for Selective Licensing offences, including for not having a licence, non-compliance with licence conditions, or for improvement notices.
- 30 Forty-one case files are currently being prepared that may progress to prosecution or civil penalty.
- 31 The maximum penalty for each offence is £30,000. Income received from a civil penalty can be retained by DCC, providing it is used to

further the statutory functions in relation to enforcement activities covering the private rented sector.

Next Steps

- 32 The Economic and Enterprise Overview and Scrutiny Committee will receive a presentation and make any comments and observations they feel appropriate for the scheme.

Background Papers

- Cabinet approval for selective licensing application to central government: [Agenda for Cabinet on Wednesday 16 September 2020, 9.30 am - Durham County Council](#)

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Appendix 1: Implications

Legal Implications

Local authorities are required to obtain confirmation from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area.

Finance

The income from the Selective Licensing scheme is ring-fenced to the scheme.

Consultation

Consultation of the scheme occurred over six months in 2020.

Equality and Diversity / Public Sector Equality Duty

n/a

Climate Change

None.

Human Rights

None.

Crime and Disorder

Selective Licensing can be used effectively to ensure landlords comply with their legal requirements.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

n/a